

ARTICLE APPENDED
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Men of Zeal

By Anthony Lewis

WASHINGTON, March 30 — Alarmist statements about constitutional rights are seldom justified in a country as free as this. But after a meeting here last night I am alarmed: not so much by the details discussed as by the official attitude of mind displayed.

The subject was President Reagan's new directive on "national security information." Under it, officials who handle highly sensitive material must sign an enforceable agreement that even after leaving office they will not say or write anything on national security matters without first submitting it for official clearance.

The order extends a severe rule that has covered intelligence agents to others in government. How many is not clear, but certainly all officials of significance in the State and Defense Departments and the White House are included. And they are the men and women who most often want to speak out, contributing to the debate on public policy, when they return to private life.

For example, many former officials commented last week on President Reagan's call for anti-missile weapons in space. If they had been covered by the Reagan information order, they would have had to submit their views for clearance before giving an article to a newspaper.

A Justice Department official defended the Reagan order at the meeting I attended, called by the Center for National Security Studies, a private group. Under the rules he cannot be identified, but it can be said that he played a large part in drafting the order.

What was so striking about the official was the matter-of-fact way he turned American constitutional tradition inside out. His premises were utterly different from some that have been at the foundations of our freedom.

He was asked again and again what reason there was for this sweeping order — what leaks had endangered the national security. He never answered. He never cited a concrete danger of the kind that we used to think must be shown to justify official restraints on expression.

"This was the product of a painstaking study," he said. But it was a study carried on in secret by executive officials, with no public discussion, much less Congressional examination. It violated the basic American precept that there can be no wise rule-making — and no safety — in the dark.

He asserted that the C.I.A. was doing a fair job in its censorship of manuscripts. It was a preposterous assertion, given the record of attempts to suppress the most innocuous critical comments — such as an account of money wasted on redecorating the Director's office. And the whole premise was at odds with our deep-rooted tradition against prior restraints.

Most amazing was the Justice Department official's statement that the President has the power, without regard to Congress, to do whatever is necessary in his opinion to safeguard classified information. Of course he can make internal rules to discipline government employees. But subject them for life, after leaving office, to censorship enforced by court injunctions and heavy financial penalties? To do that without legislation is extraordinary.

In the Steel Seizure Case in 1952 the Supreme Court resoundingly rejected such an assertion of executive power in the circumstances of a wartime emergency. It rejected an urgent national security censorship claim in 1971 in the Pentagon Papers case. The Justice Department official mentioned those cases as if, somehow, they had been decided the opposite way.

"There is room for fine-tuning the regulations after a time," the official said. "Perhaps after someone has been out of government 10 or 20 years whatever secrets he knew will no longer matter, and he will not have to submit manuscripts." So it should all be a matter of official discretion: in what we used to think was a government of laws, not men.

The official was young, highly intelligent and plainly sincere. He said that the Reagan order built on steps taken by previous Administrations, and he was right. And all that made it more scary, not less.

Those who wrote the Constitution and the First Amendment thought open, informed debate was the best way to prevent abuse of official power. Today government has power undreamed of by Jefferson and Madison, and much of it is exercised in secret. To check it we rely on the second thoughts of those who have been inside. Yet as that source is throttled, where are the voices of protest in Congress? Is the American press as outraged as it would be, say, at the loss of one big libel case?

It will take a courageous Supreme Court to stop this drastic assertion of executive power. Perhaps the Court will find its voice someday — a voice like that of Hugo Black, or of the Louis Brandeis who wrote in 1928:

"Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficent. . . . The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning, but without understanding."